
OLR Bill Analysis

HB 6448

AN ACT CONCERNING PROBATE FEES.

SUMMARY:

This bill establishes a \$250 fee for motions to allow an attorney not licensed in the state to appear "*pro hac vice*" in a probate court matter (§§ 1-3). Probate court rules allow a state-licensed attorney to make a motion to allow an attorney licensed in another jurisdiction to appear in a probate matter in Connecticut for special and infrequent occasions, under certain conditions.

The bill updates terminology for calculating fees for periodic accounts, by referring to "fiduciary acquisition value" rather than "book value" (§ 3). It incorporates the definition of "fiduciary acquisition value" from the probate court rules.

The bill excludes certain fees (including the *pro hac vice* fee) from the \$12,500 cap on total fees for settling an estate (§ 2).

It deletes obsolete provisions regarding estate settlement fees for proceedings begun before April 1, 1998 (§ 2).

The bill also makes technical changes.

EFFECTIVE DATE: January 1, 2014

PERIODIC ACCOUNTS

Under current law, the fees for probate proceedings concerning the allowance and settlement of periodic and other accounts, other than those dealing with a decedent's estate, are based on the greater of the book value, market value, or receipts involved. The bill substitutes "fiduciary acquisition value" for book value and provides that fiduciary acquisition value has the meaning set forth in the probate rules of procedure (see BACKGROUND).

BACKGROUND

Fiduciary Acquisition Value

On November 7, 2012, the Supreme Court adopted the most recent revision to the probate rules, to take effect July 1, 2013. Under § 36.14 of the rules, an asset's fiduciary acquisition value is:

1. for a decedent's estate, the asset's fair market value on the date of death;
2. for a trust, the asset's fair market value on the date of the testator's or settlor's death, or on any other basis for value that the court directs after considering the trust's nature and the manner in which it was funded; and
3. for a conservatorship, guardianship, or other estate not specified in the rule, the asset's fair market value on the date of appointment of the first fiduciary.

Under the rule, if a fiduciary purchases an asset during the course of administration, its fiduciary acquisition value is its purchase price plus expenses directly related to the purchase.

The rule provides that an asset's fiduciary acquisition value does not change based on unrealized gain or loss owing to market value fluctuations. But the value must be adjusted to reflect transactions in which (1) additional investments, such as capital improvements, are made in an asset and (2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/12/2013)